

JACKSON LEWIS P.C.

Joshua A. Sliker, (Nevada Bar No. 12493)
joshua.sliker@jacksonlewis.com
3800 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
Telephone: (702) 921-2460
Facsimile: (702) 921-2461

HUESTON HENNIGAN LLP

John C. Hueston (*admitted pro hac vice*)
jhueston@hueston.com
Allison L. Libeu (*admitted pro hac vice*)
alibeu@hueston.com
523 W. 6th St., Suite 400, Los Angeles, CA 90014
Telephone: (213) 788-4340
Facsimile: (888) 775-0898

Attorneys for Plaintiff/Counter-Defendant Tesla, Inc.

TIFFANY & BOSCO, P.A.

Robert D. Mitchell (*admitted pro hac vice*)
rdm@tblaw.com
William M. Fischbach III (*admitted pro hac vice*)
wmf@tblaw.com
Christopher J. Waznik (*admitted pro hac vice*)
cjw@tblaw.com
Jason C. Kolbe (Nevada Bar No. 11624)
jck@tblaw.com
Kevin S. Soderstrom (Nevada Bar No. 10235)
kss@tblaw.com
Camelback Esplanade II, Seventh Floor
2525 East Camelback Road Phoenix, Arizona 85016-4229
Telephone: (602) 255-6000
Facsimile: (602) 255-0103

Attorneys for Defendant/Counter-Plaintiff Martin Tripp

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TESLA, INC, a Delaware corporation,

Plaintiff,

v.

MARTIN TRIPP, an individual,

Defendant.

AND RELATED COUNTERCLAIM

Case No.: 3:18-cv-00296-LRH-CBC

**STIPULATION AND [PROPOSED]
MODIFICATION TO SCHEDULING
ORDER**

(FIRST REQUEST)

1 Pursuant to Local Rule 26-4, Plaintiff and Counter-Defendant Tesla, Inc. ("Tesla") and
2 Defendant and Counter-Plaintiff Martin Tripp ("Tripp") submit the following Stipulation and
3 Proposed Modification to Scheduling Order. The parties respectfully submit that modification of
4 the scheduling order is warranted due to intervening holidays and the unavailability of counsel. In
5 support of and as good cause for this stipulation, the parties state as follows:

- 6 (a) On August 28, 2018, the Court entered the Discovery Plan and Scheduling Order
7 ("Scheduling Order") (ECF No. 31);
- 8 (b) On August 29, 2018, the parties exchanged initial disclosures pursuant to Federal
9 Rule of Civil Procedure 26(a)(1) and the Scheduling Order;
- 10 (c) On October 1, 2018, the Court held a case management conference, during which
11 the Court noted that the Scheduling Order may need to be extended (ECF No. 42);
- 12 (d) During the discovery period, the parties exchanged requests for documents,
13 interrogatories, and requests for admission as well as responses thereto;
- 14 (e) On October 30, 2018, Tesla noticed Tripp's deposition and the depositions of
15 certain third parties to occur in late November and early December;
- 16 (f) On October 31, 2018, Tripp's counsel informed Tesla that they were not available
17 on the date that Tesla noticed for Tripp's deposition nor all but one of the dates
18 noticed for depositions of third parties;
- 19 (g) On October 31, 2018, Tesla agreed to continue the depositions to mutually
20 convenient dates;
- 21 (h) On November 8, 2018, Tesla disclosed its expert and expert report pursuant to
22 Federal Rule of Civil Procedure 26(a)(2) and the Scheduling Order;
- 23 (i) On November 8, 2018, Tripp proposed that the parties meet and confer regarding a
24 possible extension of an unspecified number of case deadlines;
- 25 (j) On November 15, 2018, Tripp proposed that the parties agree to extend the
26 following deadlines to allow for the taking of depositions and completion of
27 remaining discovery: (i) the deadline for disclosure of rebuttal experts and their
28

1 reports; (ii) the discovery cutoff date; (iii) the deadline for dispositive motions; and
2 (iv) the deadline for filing the pretrial order;

3 (k) This is the first request for modification of the Scheduling Order;

4 (l) With the exception of the deadline for disclosure of rebuttal experts and their
5 reports, this stipulation complies with Local Rule 26-4 in that it is filed not later than twenty-one
6 (21) days before the subject deadlines;

7 (m) Tesla does not oppose Tripp's request to extend the deadline for disclosure of
8 rebuttal experts and their reports.

9 For the foregoing reasons, the parties stipulate and respectfully request that the Scheduling
10 Order be modified as follows:

11 1. **Federal Rule of Civil Procedure 26(a)(2) Disclosures (Experts):** Disclosure of
12 rebuttal experts and their reports shall occur by **December 21, 2018**.

13 2. **Discovery Cutoff Date:** Discovery shall be extended to March 11, 2019. This is
14 the deadline for completing discovery and means all discovery must be commenced in time to be
15 completed by **March 11, 2019**.

16 3. **Dispositive Motions:** Dispositive motions may be filed no later than **April 10,**
17 **2019**, which is thirty (30) days after the discovery deadline. In the event that the discovery period
18 is extended from the discovery cutoff date set forth herein, the date for filing dispositive motions
19 shall be extended for the same duration, to be no later than thirty (30) days from the subsequent
20 discovery cutoff date.

21 4. **Pretrial Order:** The pretrial order shall be filed by **May 10, 2019**, which is not
22 later than thirty (30) days after the date set for filing dispositive motions. In the event dispositive
23 motions are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days
24 after the decision of the dispositive motions or until further order of the Court. In the further event
25 that the discovery period is extended from the discovery cutoff date set forth herein, the date for
26 filing the joint pretrial order shall be extended in accordance with the period set forth in this
27 paragraph. The disclosures required by Federal Rule of Civil Procedure 26(a)(3), and any
28 objections thereto, shall be included in the pretrial order.

1 5. All other deadlines remain as stated in the Discovery Plan and Scheduling Order
2 (ECF No. 31) previously entered by the Court.

3
4 Dated: November 27, 2018

HUESTON HENNIGAN LLP

5
6 /s/ Allison L. Libeu
7 Allison L. Libeu
8 *Attorneys for Plaintiff Tesla, Inc.*

9 Dated: November 27, 2018

TIFFANY & BOSCO, P.A.

10 /s/ Christopher J. Waznik
11 Christopher J. Waznik
12 *Attorneys for Defendant Martin Tripp*

13 **ORDER**

14 IT IS SO ORDERED

15
16 _____
17 THE HON. CARLA BALDWIN CARRY
18 UNITED STATES MAGISTRATE JUDGE

19 DATED: _____
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CERTIFICATE OF SERVICE

I hereby certify and declare under penalty of perjury that on November 27, 2018, I electronically filed the foregoing with the Clerk of Court for filing and uploading to the CM/ECF system which will send notification of such filing to all parties of record.

/s/ Kelley Chandler